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SECTION 133. 20.005 (3) (schedule) 20.511 of the statutes is repealed and recreated to read:

2007–08 2008–09

20.511 Government accountability board

(1) ADMINISTRATION OF ELECTIONS, ETHICS, AND
LOBBYING LAWS

(a) General program operations;

general purpose revenue	GPR	B	1,338,200	1,340,300
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SECTION 134. 20.455 (1) (b) of the statutes is amended to read:

20.455 (1) (b) *Special counsel.* A sum sufficient, subject to the procedure procedures established in ~~ss. 5.05 (2m) (c) and~~ 14.11 (2) (c), for the compensation of special counsel appointed as provided in ss. 5.05 (2m) (c) and 14.11 (2) and 21.13.

SECTION 135. 20.510 (intro.) of the statutes is repealed.

SECTION 136. 20.510 (1) (title) of the statutes is repealed.

SECTION 137. 20.510 (1) (a) of the statutes is repealed.

SECTION 138. 20.510 (1) (b) of the statutes is renumbered 20.511 (1) (b).

SECTION 139. 20.510 (1) (bm) of the statutes is renumbered 20.511 (1) (bm).

SECTION 140. 20.510 (1) (c) of the statutes is renumbered 20.511 (1) (c).

SECTION 141. 20.510 (1) (d) of the statutes is renumbered 20.511 (1) (d).

SECTION 142. 20.510 (1) (g) of the statutes is renumbered 20.511 (1) (g).

SECTION 143. 20.510 (1) (gm) of the statutes is repealed.

SECTION 144. 20.510 (1) (h) of the statutes is repealed.

SECTION 145. 20.510 (1) (i) of the statutes is repealed.

SECTION 146. 20.510 (1) (j) of the statutes is renumbered 20.511 (1) (j).

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1 **SECTION 147.** 20.510 (1) (q) of the statutes is renumbered 20.511 (1) (q).

2 **SECTION 148.** 20.510 (1) (t) of the statutes is renumbered 20.511 (1) (t).

3 **SECTION 149.** 20.510 (1) (x) of the statutes is renumbered 20.511 (1) (x).

4 **SECTION 150.** 20.511 (intro.) and (1) (title) and (a) of the statutes are created
5 to read.

6 **20.511 Government accountability board.** (intro.) There is appropriated
7 from the general fund, except where otherwise indicated, to the government
8 accountability board for the following programs:

9 **(1)** (title) ADMINISTRATION OF ELECTION, ETHICS, AND LOBBYING LAWS.

10 (a) *General program operations; general purpose revenue.* Biennially, the
11 amounts in the schedule for general program operations of the board, including the
12 printing of forms, materials, manuals, and election laws under ss. 7.08 (1) (b), (3), and
13 (4) and 11.21 (3) and (14), and the training of election officials under s. 5.05 (7).

14 **SECTION 151.** 20.511 (1) (c) of the statutes, as affected by 2007 Wisconsin Act
15 (this act), is repealed.

16 **SECTION 152.** 20.511 (1) (h) and (i) of the statutes are created to read:

17 20.511 **(1)** (h) *Materials and services.* The amounts in the schedule for the costs
18 of publishing documents, locating and copying records, and conducting programs
19 under s. 19.48 (9) and administrative meetings and conferences, for compiling,
20 disseminating, and making available information prepared by and filed with the
21 board under s. 19.48 (10), and for supplies, postage, and shipping. All moneys
22 received by the board from collections for sales of publications, copies of records, and
23 supplies, for postage, for shipping and records location fees, from fees assessed under
24 s. 19.48 (9) and (10), and for charges assessed to participants in administrative
25 meetings and conferences shall be credited to this appropriation account.

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1 (i) *General program operations; program revenue.* The amounts in the schedule
2 for general program operations of the board. All moneys received from fees imposed
3 under ss. 11.055 (1) and 13.75 shall be credited to this appropriation account.

4 **SECTION 153.** 20.521 (intro.) of the statutes is repealed.

5 **SECTION 154.** 20.521 (1) (title) of the statutes is repealed.

6 **SECTION 155.** 20.521 (1) (a) of the statutes is repealed.

7 **SECTION 156.** 20.521 (1) (b) of the statutes is renumbered 20.511 (1) (be) and
8 amended to read:

9 20.511 **(1)** (be) ~~*Code of ethics investigations*~~ *Investigations.* Biennially, the
10 amounts in the schedule A sum sufficient for the purpose of financing the costs of
11 investigations authorized by the board of potential violations of the code of ethics for
12 state public officials and employees under chs. 5 to 12, subch. III of ch. 13, and subch.
13 III of ch. 19.

14 **SECTION 157.** 20.521 (1) (g) of the statutes is repealed.

15 **SECTION 158.** 20.521 (1) (h) of the statutes is renumbered 20.511 (1) (jm) and
16 amended to read:

17 20.511 **(1)** (jm) *Gifts and grants.* All moneys received by the board from gifts,
18 grants, and bequests and ~~and~~ devises to carry out the purposes, not inconsistent with
19 subch. III of ch. 13 ~~or subch. III of ch. 19~~ the law, for which made or received.

20 **SECTION 159.** 20.521 (1) (i) of the statutes is repealed.

21 **SECTION 160.** 20.923 (4) (d) 3. of the statutes is repealed.

22 **SECTION 161.** 20.923 (4) (d) 4. of the statutes is repealed.

23 **SECTION 162.** 20.923 (4) (f) 3j. of the statutes is created to read:

24 20.923 **(4)** (f) 3j. Government accountability board: legal counsel.

25 **SECTION 163.** 20.930 of the statutes is amended to read:

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1 **20.930 Attorney fees.** Except as provided in ss. 5.05 (2m) (c) 7., 46.27 (7g) (h),
2 49.496 (3) (f) and 49.682 (6), no state agency in the executive branch may employ any
3 attorney until such employment has been approved by the governor.

4 **SECTION 164.** 46.95 (4) of the statutes is amended to read:

5 46.95 **(4)** LIST OF ELIGIBLE ORGANIZATIONS. The department shall certify to the
6 elections government accountability board, on a continuous basis, a list containing
7 the name and address of each organization that is eligible to receive grants under
8 sub. (2).

9 **SECTION 165.** 59.605 (3) (a) 3. of the statutes is amended to read:

10 59.605 **(3)** (a) 3. The referendum shall be held in accordance with chs. 5 to 12.
11 The governing body shall provide the election officials with all necessary election
12 supplies. The form of the ballot shall correspond substantially with the standard
13 form for referendum ballots prescribed by the elections government accountability
14 board under ss. 5.64 (2) and 7.08 (1) (a). If the resolution under subd. 1. specifies the
15 operating levy rate, the question shall be submitted as follows: "Under state law, the
16 operating levy rate for the (name of county), for the tax to be imposed for the year
17 (year), is limited to \$.... per \$1,000 of equalized value. Shall the (name of
18 county) be allowed to exceed this rate limit for (a specified number of years) (an
19 indefinite period) by \$.... per \$1,000 of equalized value that results in an operating
20 levy rate of \$.... per \$1,000 of equalized value?" If the resolution under subd. 1.
21 specifies the operating levy, the question shall be submitted as follows: "Under state
22 law, the operating levy rate for the (name of county), for the tax to be imposed for
23 the year (year), is limited to \$.... per \$1,000 of equalized value. Notwithstanding
24 the operating levy rate limit, shall the (name of county) be allowed to levy an
25 amount not to exceed \$.... (operating levy) for operating purposes for the year

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1 (year), which may increase the operating levy rate for (a specified number of
2 years) (an indefinite period)? This would allow a% increase above the levy of \$....
3 (preceding year operating levy) for the year (preceding year).”

4 **SECTION 166.** 67.05 (3) (b) of the statutes is amended to read:

5 67.05 **(3)** (b) The clerk of the jurisdiction in which the referendum is held shall
6 prepare or arrange for the preparation of the ballots. If the jurisdiction in which the
7 referendum is held is not a city, village, or town, and the clerk of the jurisdiction in
8 which the referendum is held prepares the ballots, the clerk shall deliver the ballots
9 to the municipal clerk of each city, village, or town which is wholly or partly contained
10 within the jurisdiction in which the referendum is held. The form of the ballot shall
11 correspond with the form prescribed by the elections government accountability
12 board under ss. 5.64 (2) and 7.08 (1) (a).

13 **SECTION 167.** 67.05 (6) of the statutes is amended to read:

14 67.05 **(6)** REFERENDUM IN OTHER CASES. Whenever an initial resolution has been
15 adopted by the governing body of any municipality other than a county, a town, a city,
16 a village, a technical college district, a metropolitan sewerage district created under
17 ss. 200.01 to 200.15 or 200.21 to 200.65, a town sanitary district, a public inland lake
18 protection and rehabilitation district, or a board of park commissioners, the clerk of
19 such municipality shall immediately record the resolution and call a special meeting
20 for the purpose of submitting it to the electors of the municipality for ratification or
21 rejection. The calling and conduct of the meeting shall be governed by those statutes,
22 so far as applicable, which govern the calling and conduct of special meetings in
23 general. The notice of the meeting, which shall be publicly read before the balloting
24 shall commence, and the ballot used, shall embody a copy of the resolution; the form
25 of the ballot shall correspond with the form prescribed by the elections government

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1 accountability board under ss. 5.64 (2) and 7.08 (1) (a); and the question submitted
2 shall be whether the resolution shall be approved.

3 **SECTION 168.** 71.10 (3) (b) of the statutes is amended to read:

4 71.10 **(3)** (b) The secretary of revenue shall provide a place for those
5 designations on the face of the individual income tax return and shall provide next
6 to that place a statement that a designation will not increase tax liability. Annually
7 on August 15, the secretary of revenue shall certify to the ~~elections~~ government
8 accountability board, the department of administration and the state treasurer
9 under s. 11.50 the total amount of designations made during the preceding fiscal
10 year. If any individual attempts to place any condition or restriction upon a
11 designation, that individual is deemed not to have made a designation on his or her
12 tax return.

13 **SECTION 169.** 73.0301 (1) (d) 13. of the statutes is amended to read:

14 73.0301 **(1)** (d) 13. A license issued by the ethics government accountability
15 board under s. 13.63 (1).

16 **SECTION 170.** 73.0301 (1) (e) of the statutes is amended to read:

17 73.0301 **(1)** (e) “Licensing department” means the department of
18 administration; the board of commissioners of public lands; the department of
19 commerce; the ethics government accountability board; the department of financial
20 institutions; the department of health and family services; the department of natural
21 resources; the department of public instruction; the department of regulation and
22 licensing; the department of workforce development; the office of the commissioner
23 of insurance; or the department of transportation.

24 **SECTION 171.** 85.61 (1) of the statutes is amended to read:

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1 85.61 (1) The secretary of transportation and the executive director
2 administrator of the elections division of the elections government accountability
3 board shall enter into an agreement to match personally identifiable information on
4 the official registration list maintained by the elections government accountability
5 board under s. 6.36 (1) with personally identifiable information in the operating
6 record file database under ch. 343 and vehicle registration records under ch. 341 to
7 the extent required to enable the secretary of transportation and the executive
8 director administrator of the elections division of the elections government
9 accountability board to verify the accuracy of the information provided for the
10 purpose of voter registration.

11 **SECTION 172.** 117.20 (2) of the statutes is amended to read:

12 117.20 (2) The clerk of each affected school district shall publish notice, as
13 required under s. 8.55, in the territory of that school district. The procedures for
14 school board elections under s. 120.06 (9), (11), (13), and (14) apply to a referendum
15 held under this section. The school board and school district clerk of each affected
16 school district shall each perform, for that school district, the functions assigned to
17 the school board and the school district clerk, respectively, under those subsections.
18 The form of the ballot shall correspond to the form prescribed by the elections
19 government accountability board under ss. 5.64 (2) and 7.08 (1) (a). The clerk of each
20 affected school district shall file with the secretary of the board a certified statement
21 prepared by the school district board of canvassers of the results of the referendum
22 in that school district.

23 **SECTION 173.** 117.27 (2) (b) (intro.) of the statutes is amended to read:

24 117.27 (2) (b) (intro.) The school district clerk shall include in the notice of the
25 spring election a statement that the election ballot will include a question on the

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1 change requested by the petition. The form of the ballot shall correspond to the form
2 prescribed by the elections government accountability board under ss. 5.64 (2) and
3 7.08 (1) (a) and the question on the ballot shall be:

4 **SECTION 174.** 121.91 (3) (c) of the statutes is amended to read:

5 121.91 **(3)** (c) The referendum shall be held in accordance with chs. 5 to 12. The
6 school district clerk shall provide the election officials with all necessary election
7 supplies. The form of the ballot shall correspond substantially with the standard
8 form for referendum ballots prescribed by the elections government accountability
9 board under ss. 5.64 (2) and 7.08 (1) (a). The question submitted shall be whether
10 the limit under sub. (2m) may be exceeded by a specified amount. If the resolution
11 provides that any of the excess revenue will be used for a nonrecurring purpose, the
12 ballot in the election shall so state and shall specify the amount that will be used for
13 a nonrecurring purpose. The limit otherwise applicable to the school district under
14 sub. (2m) is increased by the amount approved by a majority of those voting on the
15 question.

16 **SECTION 175.** 125.05 (1) (b) 10. of the statutes is amended to read:

17 125.05 **(1)** (b) 10. Each question submitted to the electors shall conform to the
18 form prescribed by the elections government accountability board under ss. 5.64 (2)
19 and 7.08 (1) (a).

20 **SECTION 176.** 165.25 (1) of the statutes is amended to read:

21 165.25 **(1)** REPRESENT STATE. Except as provided in s. ss. 5.05 (2m) (a) and
22 978.05 (5), appear for the state and prosecute or defend all actions and proceedings,
23 civil or criminal, in the court of appeals and the supreme court, in which the state
24 is interested or a party, and attend to and prosecute or defend all civil cases sent or
25 remanded to any circuit court in which the state is a party; and, if requested by the

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1 governor or either house of the legislature, appear for and represent the state, any
2 state department, agency, official, employee, or agent, whether required to appear
3 as a party or witness in any civil or criminal matter, and prosecute or defend in any
4 court or before any officer, any cause or matter, civil or criminal, in which the state
5 or the people of this state may be interested. The public service commission may
6 request under s. 196.497 (7) that the attorney general intervene in federal
7 proceedings. All expenses of the proceedings shall be paid from the appropriation
8 under s. 20.455 (1) (d).

9 **SECTION 177.** 165.93 (4) of the statutes is amended to read:

10 165.93 (4) LIST OF ELIGIBLE ORGANIZATIONS. The department shall certify to the
11 elections government accountability board, on a continuous basis, a list containing
12 the name and address of each organization that is eligible to receive grants under
13 sub. (2).

14 **SECTION 178.** 198.08 (10) of the statutes is amended to read:

15 198.08 (10) ELECTION STATISTICS. The clerk of the district shall seasonably
16 obtain, compile, and file in his or her office, for the information of the public, a
17 statement showing the total number of votes cast for the office of governor in the last
18 preceding general election in each subdistrict of the district. The clerk of every
19 municipality and the elections government accountability board shall furnish such
20 information so far as obtainable from their records, duly certified, to the clerk of the
21 district upon request therefor by the clerk of the district. If the total number of votes
22 cast in any subdistrict for the office of governor in the last preceding election cannot,
23 because of an intervening change of boundaries of election wards or for any reason,
24 be ascertained from any official record the clerk of the district shall fairly estimate
25 such number for the purposes of such statement to be filed in his or her office.

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SECTION 179. 200.09 (11) (am) 2. and 3. of the statutes are amended to read:

200.09 **(11)** (am) 2. No resolution passed under subd. 1. may authorize election of commissioners sooner than 6 months after the date of passage. The commission shall immediately notify the ~~elections~~ government accountability board under s. 5.05 upon passage of a resolution under subd. 1.

3. If the governing bodies of each city, town, and village comprising the district pass a resolution to discontinue election of commissioners, each commissioner may hold office until a successor is appointed and qualified. The commission shall immediately notify the ~~elections~~ government accountability board under s. 5.05 upon passage of a resolution under this subdivision.

SECTION 180. 227.03 (6) of the statutes is amended to read:

227.03 **(6)** Orders of the ~~elections~~ government accountability board under s. 5.06 (6) are not subject to this chapter.

SECTION 181. 227.45 (1) of the statutes is amended to read:

227.45 **(1)** Except as provided in ~~ss. 19.52 (3) and s.~~ 901.05, an agency or hearing examiner shall not be bound by common law or statutory rules of evidence. The agency or hearing examiner shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony or evidence that is inadmissible under s. 901.05. The agency or hearing examiner shall give effect to the rules of privilege recognized by law. Basic principles of relevancy, materiality and probative force shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

SECTION 182. 227.46 (1) (intro.) of the statutes is amended to read:

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1 227.46 **(1)** (intro.) Except as provided under s. 227.43 (1), an agency may
2 designate an official of the agency or an employee on its staff or borrowed from
3 another agency under s. 20.901 or 230.047 as a hearing examiner to preside over any
4 contested case. ~~In hearings under s. 19.52, a reserve judge shall be appointed.~~
5 Subject to rules of the agency, examiners presiding at hearings may:

6 **SECTION 183.** 227.52 (6) of the statutes is amended to read:

7 227.52 **(6)** Decisions of the chairperson of the elections government
8 accountability board or the chairperson's designee.

9 **SECTION 184.** 230.08 (2) (e) 4h. of the statutes is created to read:

10 230.08 **(2)** (e) 4h. Government accountability board — 2.

11 **SECTION 185.** 230.08 (2) (om) of the statutes is repealed.

12 **SECTION 186.** 230.08 (2) (on) of the statutes is created to read:

13 230.08 **(2)** (on) The legal counsel to the government accountability board.

14 **SECTION 187.** 230.08 (2) (wm) of the statutes is repealed.

15 **SECTION 188.** 230.08 (4) (a) of the statutes is amended to read:

16 230.08 **(4)** (a) The number of administrator positions specified in sub. (2) (e)
17 includes all administrator positions specifically authorized by law to be employed
18 outside the classified service in each department, board or commission and the
19 historical society. In this paragraph, "department" has the meaning given under s.
20 15.01 (5), "board" means the educational communications board, government
21 accountability board, investment board, public defender board and technical college
22 system board and "commission" means the public service commission.
23 Notwithstanding sub. (2) (z), no division administrator position exceeding the
24 number authorized in sub. (2) (e) may be created in the unclassified service.

25 **SECTION 189.** 234.02 (3m) (c) of the statutes is amended to read:

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1 234.02 **(3m)** (c) The authority shall, with the advice of the ethics government
2 accountability board, adopt and enforce ethics guidelines applicable to its paid
3 consultants which are similar to subch. III of ch. 19, except that the authority may
4 not require its paid consultants to file financial disclosure statements.

5 **SECTION 190.** 301.03 (20m) of the statutes is amended to read:

6 301.03 **(20m)** Transmit to the ~~elections~~ government accountability board, on
7 a continuous basis, a list containing the name of each living person who has been
8 convicted of a felony under the laws of this state and whose civil rights have not been
9 restored, together with his or her residential address and the date on which the
10 department expects his or her civil rights to be restored.

11 **SECTION 191.** 343.11 (2m) of the statutes is amended to read:

12 343.11 **(2m)** Within 30 days following surrender of a license under sub. (1), the
13 department shall provide notice to the ~~elections~~ government accountability board of
14 the person's name and address, the name of the jurisdiction issuing the surrendered
15 license, and the date on which the license was surrendered.

16 **SECTION 192.** 560.04 (2m) of the statutes is amended to read:

17 560.04 **(2m)** DUTIES. The department may assign one or more full-time
18 equivalent positions to the functions of coordinating the development and scheduling
19 of training programs for local government officials by the University of
20 Wisconsin-Extension, technical college system, department of revenue, ~~elections~~
21 government accountability board, and other state agencies in order to assure the
22 effective delivery of training programs and to prevent duplication of effort and of
23 coordinating requests for management or personnel consultative services from
24 government units other than the state and directing those requests to the
25 appropriate division of the department of administration.

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1 **SECTION 193.** 758.19 (9) of the statutes is created to read:

2 758.19 **(9)** If a court of appeals judge is appointed to serve as a member of the
3 governmental accountability candidate committee and the judge has good cause for
4 declining to serve, the director of state courts shall accept from the judge a written
5 communication setting forth the reasons why the judge cannot or should not serve
6 and the judge shall then be excused from service. Upon receipt of the communication,
7 the director shall notify the chief justice and the vacancy shall then be filled as
8 provided in ss. 15.60 (2) and 17.20 (1).

9 **SECTION 194.** 778.135 of the statutes is amended to read:

10 **778.135 Campaign finance, lobbying, and ethics forfeitures; how**
11 **recovered.** Notwithstanding s. 778.13, whenever any action or proposed action by
12 the elections government accountability board under s. 5.05 (1) (c) is settled as a
13 result of agreement between the parties without approval of the court, the moneys
14 accruing to the state on account of such settlement shall be paid to the board and
15 deposited with the secretary of administration. ~~Whenever any proposed action by~~
16 ~~a county board of election commissioners under s. 7.21 (2m) (a) is settled as a result~~
17 ~~of agreement between the parties, the moneys accruing to the county on account of~~
18 ~~such settlement shall be paid to the board of election commissioners and deposited~~
19 ~~with the county treasurer in the same manner as provided for forfeitures under s.~~
20 ~~778.13.~~

21 **SECTION 195.** 778.136 of the statutes is repealed.

22 **SECTION 196.** 801.50 (5t) of the statutes is created to read:

23 801.50 **(5t)** Except as otherwise provided in s. 801.52, venue in a civil action
24 to impose a forfeiture upon a resident of this state for a violation of chs. 5 to 12, subch.
25 III of ch. 13, or subch. III of ch. 19, or for a violation of any other law arising from or

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1 in relation to the official functions of the subject of the investigation or any matter
2 that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III
3 of ch. 13, or subch. III of ch. 19, shall be in circuit court for the county where the
4 defendant resides. For purposes of this subsection, a person other than a natural
5 person resides within a county if the person's principal place of operation is located
6 within that county.

7 **SECTION 197.** 801.52 of the statutes is amended to read:

8 **801.52 Discretionary change of venue.** The court may at any time, upon
9 its own motion, the motion of a party or the stipulation of the parties, change the
10 venue to any county in the interest of justice or for the convenience of the parties or
11 witnesses, except that venue in a civil action to impose forfeiture for a violation of chs.
12 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 or for a violation of any other law
13 arising from or in relation to the official functions of the subject of the investigation
14 or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to
15 12, subch. III of ch. 13, or subch. III of ch. 19, may be changed only in the same
16 manner that is authorized for a change in the venue of a criminal trial under s.
17 971.22. This section does not apply to proceedings under ch. 980.

18 **SECTION 198.** 971.19 (12) of the statutes is created to read:

19 971.19 (12) In an action for a violation of chs. 5 to 12, subch. III of ch. 13, or
20 subch. III of ch. 19, or for a violation of any other law arising from or in relation to
21 the official functions of the subject of the investigation or any matter that involves
22 elections, ethics, or lobbying regulation under subch. 5 to 12, subch. III of ch. 13, or
23 subch. III of ch. 19 a defendant who is a resident of this state shall be tried in circuit
24 court for the county where the defendant resides. For purposes of this subsection,

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1 a person other than a natural person resides within a county if the person's principal
2 place of operation is located within that county.

3 **SECTION 199.** 978.05 (1) and (2) of the statutes are amended to read:

4 978.05 **(1)** CRIMINAL ACTIONS. Except as otherwise provided by law, prosecute
5 all criminal actions before any court within his or her prosecutorial unit and have
6 sole responsibility for prosecution of all criminal actions arising from violations of
7 chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 and from violations of other
8 laws arising from or in relation to the official functions of the subject of the
9 investigation or any matter that involves election, ethics, or lobbying regulation
10 under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, that are alleged to be
11 committed by a resident of his or her prosecutorial unit, or if alleged to be committed
12 by a nonresident of this state, that are alleged to occur in his or her prosecutorial unit
13 unless another prosecutor is substituted under s. 5.05 (2m) (i) or this chapter or by
14 referral of the government accountability board under s. 5.05 (2m) (c) 15. or 16. For
15 purposes of this subsection, a person other than a natural person is a resident of a
16 prosecutorial unit if the person's principal place of operation is located in that
17 prosecutorial unit.

18 **(2)** FORFEITURES. Except as otherwise provided by law, prosecute all state
19 forfeiture actions, county traffic actions and actions concerning violations of county
20 ordinances which are in conformity with state criminal laws in the courts within his
21 or her prosecutorial unit and have joint responsibility, together with the government
22 accountability board, for prosecution of all forfeiture actions arising from violations
23 of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 and from violations of other
24 laws arising from or in relation to the official functions of the subject of the
25 investigation or any matter that involves elections, ethics, or lobbying regulation

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1 under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 that are alleged to be
2 committed by a resident of his or her prosecutorial unit, or if alleged to be committed
3 by a nonresident of this state, that are alleged to occur within his or her prosecutorial
4 unit unless another prosecutor is substituted under s. 5.05 (2m) (h) or this chapter
5 or by referral of the government accountability board under s. 5.05 (2m) (c) 15. or 16.
6 For purposes of this subsection, a person other than a natural person is a resident
7 of a prosecutorial unit if the person's principal place of operation is located in that
8 prosecutorial unit.

SECTION 200. Nonstatutory provisions.**(1) TRANSFER OF ELECTIONS BOARD.**

11 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
12 liabilities of the elections board shall become the assets and liabilities of the
13 government accountability board.

(b) Positions and employees.

15 1. On the effective date of this subdivision, all full-time equivalent positions
16 in the elections board are transferred to the government accountability board.

17 2. All incumbent employees holding positions in the elections board on the
18 effective date of this subdivision, except the incumbent employee holding the
19 position of executive director, are transferred on the effective date of this subdivision
20 to the government accountability board.

21 3. Employees transferred under subdivision 2. have all the rights and the same
22 status under subchapter V of chapter 111 and chapter 230 of the statutes in the
23 government accountability board that they enjoyed in the elections board
24 immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes,

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1 no employee so transferred who has attained permanent status in class is required
2 to serve a probationary period.

3 (c) *Tangible personal property.* On the effective date of this paragraph, all
4 tangible personal property, including records, of the elections board is transferred to
5 the government accountability board.

6 (d) *Contracts.* All contracts entered into by the elections board in effect on the
7 effective date of this paragraph remain in effect and are transferred to the
8 government accountability board. The government accountability board shall carry
9 out any contractual obligations under such a contract until the contract is modified
10 or rescinded by the government accountability board to the extent allowed under the
11 contract.

12 (e) *Rules and orders.* Within one year after the date of the initial meeting of
13 the government accountability board, the board shall hold one or more public
14 hearings on the question of reaffirmation of each rule that has been promulgated and
15 each order that has been issued by the elections board and that is in effect on that
16 date. Except as authorized in this paragraph, every rule promulgated by the
17 elections board that is in effect on the effective date of this paragraph remains in
18 effect until its specified expiration date or until the end of the 365-day period
19 beginning on the date of the initial meeting of the government accountability board,
20 whichever is earlier, unless that board repeals or amends the rule, effective on an
21 earlier date, or unless that board specifically votes to reaffirm the rule. Except as
22 authorized in this paragraph, every order issued by the elections board that is in
23 effect on the effective date of this paragraph remains in effect until its specified
24 expiration date or until the end of the 365-day period beginning on the date of the
25 first meeting of the government accountability board, whichever is earlier, unless

BILL**SECTION 200**

1 that board modifies or rescinds the order, effective on an earlier date, or unless that
2 board specifically votes to reaffirm the order. Any action by the board to amend or
3 repeal a rule shall be in accordance with subchapter II of chapter 227 of the statutes.
4 The board may extend the expiration date of any rule or order under this paragraph
5 for not more than 3 months in order to afford time for additional review, but no such
6 extension or renewal of an extension may extend the expiration date of any rule or
7 order by more than 6 months in all.

8 (f) *Formal opinions.* Within one year after the date of the initial meeting of the
9 government accountability board, the board shall hold one or more public hearings
10 on the question of reaffirmation of each formal opinion that has been issued by the
11 elections board and that has not been withdrawn or modified. Except as authorized
12 in this paragraph, every formal opinion issued by the elections board that has not
13 been withdrawn or modified on the date of the initial meeting of the Government
14 Accountability Board remains in effect until the end of the 365-day period beginning
15 on the date of that meeting unless that board withdraws or modifies the opinion on
16 an earlier date, or unless that board specifically votes to reaffirm the opinion on an
17 earlier date. The board may extend the period of effectiveness of any formal opinion
18 under this paragraph for not more than 3 months in order to afford time for
19 additional review, but no such extension or renewal of an extension may extend the
20 period of effectiveness of any opinion by more than 6 months in all.

21 (g) *Review of internal operating procedures.* During the 365-day period
22 beginning on the date of the initial meeting of the government accountability board,
23 the board shall review all internal operating procedures of the elections board in
24 effect on the date of the board's initial meeting that affect the manner in which the
25 board interrelates with persons who are not employees of the board. The review shall

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1 specifically address the degree to which employees are authorized to perform their
2 functions without direct supervision of or approval of the board. During the
3 pendency of the review, no employee of the government accountability board may
4 make any change in an internal operating procedure described in this paragraph
5 unless that board first holds a public hearing concerning the proposed change and
6 that board specifically approves the change.

7 (h) *Pending matters.* Any matter pending with the elections board on the
8 effective date of this paragraph is transferred to the government accountability
9 board, and all materials submitted to or actions taken by the elections board with
10 respect to the pending matter are considered as having been submitted to or taken
11 by the government accountability board.

12 (2) TRANSFER OF ETHICS BOARD.

13 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
14 liabilities of the ethics board shall become the assets and liabilities of the government
15 accountability board.

16 (b) *Positions and employees.*

17 1. On the effective date of this subdivision, all full-time equivalent positions
18 in the ethics board are transferred to the government accountability board.

19 2. All incumbent employees holding positions in the ethics board on the
20 effective date of this subdivision, except the incumbent employee holding the
21 position of executive director, are transferred on the effective date of this subdivision
22 to the government accountability board.

23 3. Employees transferred under subdivision 2. have all the rights and the same
24 status under subchapter V of chapter 111 and chapter 230 of the statutes in the
25 government accountability board that they enjoyed in the ethics board immediately

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1 before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee
2 so transferred who has attained permanent status in class is required to serve a
3 probationary period.

4 (c) *Tangible personal property.* On the effective date of this paragraph, all
5 tangible personal property, including records, of the ethics board is transferred to the
6 government accountability board.

7 (d) *Contracts.* All contracts entered into by the ethics board remain in effect
8 and are transferred to the government accountability board. The government
9 accountability board shall carry out any contractual obligations under such a
10 contract until the contract is modified or rescinded by the government accountability
11 board to the extent allowed under the contract.

12 (e) *Rules and orders.* Within one year after the date of the initial meeting of
13 the government accountability board, the board shall hold one or more public
14 hearings on the question of reaffirmation of each rule that has been promulgated and
15 each order that has been issued by the ethics board and that is in effect on that date.
16 Except as authorized in this paragraph, every rule promulgated by the ethics board
17 that is in effect on the effective date of this paragraph remains in effect until its
18 specified expiration date or until the end of the 365-day period beginning on the date
19 of the initial meeting of the government accountability board, whichever is earlier,
20 unless that board amends or repeals the rule, effective on an earlier date, or unless
21 that board specifically votes to reaffirm the rule. Except as authorized in this
22 paragraph, every order issued by the ethics board that is in effect on the effective date
23 of this paragraph remains in effect until its specified expiration date or until the end
24 of the 365-day period beginning on the date of the initial meeting of the government
25 accountability board, whichever is earlier, unless that board modifies or rescinds the

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1 order, effective on an earlier date, or unless that board specifically votes to reaffirm
2 the order. Any action by the board to amend or repeal a rule shall be in accordance
3 with subchapter II of chapter 227 of the statutes. The board may extend the
4 expiration date of any rule or order under this paragraph for not more than 3 months
5 in order to afford time for additional review, but no such extension or renewal of an
6 extension may extend the expiration date of any rule or order by more than 6 months
7 in all.

8 (f) *Formal opinions.* Within one year after the date of the initial meeting of the
9 government accountability board, the board shall hold one or more public hearings
10 on the question of reaffirmation of each formal opinion that has been issued by the
11 ethics board and that has not been withdrawn or modified. If the formal opinion is
12 confidential, the board shall hold the hearing on the question of reaffirmation of the
13 summary of the opinion that has been published. Except as authorized in this
14 paragraph, every formal opinion issued by the ethics board or by the executive
15 director of the ethics board acting in its stead that has not been withdrawn or
16 modified on the date of the initial meeting of the government accountability board
17 remains in effect until the end of the 365-day period beginning on the date of that
18 meeting unless that board withdraws or modifies the opinion on an earlier date, or
19 unless that board specifically votes to reaffirm the opinion on an earlier date. The
20 board may extend the period of effectiveness of any formal opinion under this
21 paragraph for not more than 3 months in order to afford time for additional review,
22 but no such extension or renewal of an extension may extend the period of
23 effectiveness of an opinion by more than 6 months in all.

24 (g) *Review of guidelines.* Within one year after the date of the initial meeting
25 of the government accountability board, the board shall hold one or more public

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1 hearings for the purpose of reviewing the question of reaffirmation of each current
2 guideline that has been issued by the ethics board. The review shall address the
3 extent to which the guidelines are consistent with relevant law. Except as authorized
4 in this paragraph, the government accountability board shall withdraw each
5 guideline identified in this paragraph at the end of the 365-day period beginning on
6 the date of the initial meeting of the board, unless the board chooses to withdraw or
7 revise the guideline at an earlier date or unless the board specifically votes to
8 reaffirm the current text of the guideline as issued prior to the end of that period.
9 The board may extend the circulation period of any guideline identified in this
10 paragraph for not more than 3 months in order to afford time for additional review,
11 but no such extension or renewal of an extension may extend the circulation period
12 of a guideline by more than 6 months in all.

13 (h) *Review of internal operating procedures.* During the 365-day period
14 beginning on the date of the initial meeting of the government accountability board,
15 the board shall review all internal operating procedures of the ethics board in effect
16 on the date of the board's initial meeting that affect the manner in which the board
17 interrelates with persons who are not employees of the board. The review shall
18 specifically address the degree to which employees are authorized to perform their
19 functions without direct supervision of or approval of the board. During the
20 pendency of the review, no employee of the government accountability board may
21 make any change in an internal operating procedure described in this paragraph
22 unless that board first holds a public hearing concerning the proposed change and
23 that board specifically approves the change.

24 (i) *Pending matters.* Any matter pending with the ethics board on the effective
25 date of this paragraph is transferred to the government accountability board, and all

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1 materials submitted to or actions taken by the ethics board with respect to the
2 pending matter are considered as having been submitted to or taken by the
3 government accountability board.

4 (3) CONFIRMATION OF PERSONS NOMINATED TO INITIALLY FILL POSITIONS ON THE
5 BOARD. Notwithstanding section 15.07 (1) (a) 2. of the statutes, as affected by this act,
6 the governor shall submit the names of the nominees to initially fill 3 of the positions
7 as members of the government accountability board to the assembly and shall
8 submit the names of the nominees to initially fill 3 of the positions as members of the
9 government accountability board to the senate, and the nominees to initially fill
10 those positions are subject to confirmation solely by a majority of the members
11 present and voting on a nomination in the house to which their names are submitted.
12 Notwithstanding section 5.052 (4) of the statutes, as created by this act, if a nominee
13 of the governor to initially fill a position as a member of the government
14 accountability board dies or withdraws, or if such a nomination is withdrawn by the
15 governor or rejected by the house to which submitted under this subsection, the
16 government accountability candidate committee shall submit an additional nominee
17 to the governor for appointment to the board, subject to confirmation by the same
18 house in accordance with this subsection.

19 (4) BOARD TRANSITIONS; INITIAL TERMS.

20 (a) Notwithstanding section 15.61, 2005 stats., section 15.62, 2005 stats., and
21 section 15.07 (1) (c) of the statutes, the terms of office of all members of the elections
22 board and all members of the ethics board holding office shall expire on the first day
23 of the 7th month beginning after the effective date of this paragraph.

24 (b) Each member of the government accountability board who is appointed as
25 provided in paragraph (c) and qualified to take office shall take office on the effective

BILL**SECTION 200**

1 date of this paragraph, or upon qualification to take office, whichever is later.
2 Notwithstanding section 15.07 (4) of the statutes, as affected by this act, the board
3 does not have a quorum for transaction of business at its initial meeting until 6
4 members have initially been appointed and qualify to serve.

5 (c) The government accountability candidate committee shall submit to the
6 governor the names of at least 8 qualified individuals to fill the initial positions as
7 members of the government accountability board. Notwithstanding section 15.60 (1)
8 of the statutes, as created by this act, and section 15.07 (1) (cm) of the statutes, of the
9 members of the government accountability board who are initially nominated by the
10 governor, and with the advice and consent of the assembly or the senate appointed,
11 2 shall be appointed to serve for terms expiring on May 1, 2009, 2 shall be appointed
12 to serve for terms expiring on May 1, 2010, and 2 shall be appointed to serve for terms
13 expiring on May 1, 2011.

14 (d) Notwithstanding section 15.60 (2) of the statutes, as created by this act, the
15 initial members of the governmental accountability candidate committee shall serve
16 for terms expiring on March 1, 2009.

17 (5) IMPLEMENTATION.

18 (a) Notwithstanding section 5.05 (1m) and (2m) of the statutes, as created by
19 this act, and section 20.922 (1) of the statutes, the director of the legislative council
20 staff shall serve as legal counsel to the government accountability board, without
21 additional compensation for such service, until such time as the board initially
22 appoints a legal counsel to the board and the appointee qualifies to take office. The
23 executive director of the legislative council staff is vested with full authority and
24 responsibility to carry out all functions of the legal counsel to the government
25 accountability board, the divisions in the government accountability board, and the

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1 administrators of the divisions prior to appointment and qualification of the initial
2 legal counsel, including the retention and termination of all staff not transferred to
3 the board that the board is authorized to employ under this act.

4 (b) Notwithstanding section 15.07 (2) (b) of the statutes, as created by this act,
5 the member of the government accountability board who is first nominated shall
6 choose the initial chairperson of the board at the first meeting of the board in
7 accordance with section 15.07 (2) (b) of the statutes, as created by this act.

8 (c) Prior to the first day of the 7th month beginning after publication of this act,
9 the government accountability board may expend moneys from the appropriation
10 under section 20.511 (1) (a) of the statutes, as created by this act, for the purpose of
11 meeting, employing staff, and preparing to assume its full authority and
12 responsibilities on that date.

13 (6) JOINT COMMITTEE ON FINANCE. Of the moneys appropriated to the joint
14 committee on finance under section 20.865 (4) (a) of the statutes for the 2005–07
15 fiscal biennium, \$155,400 is reserved to supplement the appropriation of the
16 government accountability board under section 20.511 (1) (a) of the statutes, as
17 created by this act, in fiscal year 2006–07 for the purposes described in SECTION 201
18 (5) of this act.

19 (7) NONSEVERABILITY. Notwithstanding section 990.01 (11) of the statutes, if a
20 court finds that any portion of this act is unconstitutional, then this act is void in its
21 entirety, except that any invalidation does not revive any law that is repealed by this
22 act nor revive any administrative body that was in existence prior to enactment of
23 this act.

24 **SECTION 201. Fiscal changes.**

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1 (1) The unencumbered balance in the appropriation account under section
2 20.510 (1) (h) of the statutes is transferred to the appropriation account under section
3 20.511 (1) (h) of the statutes, as created by this act.

4 (2) The unencumbered balance in the appropriation account under section
5 20.510 (1) (i) of the statutes is transferred to the appropriation account under section
6 20.511 (1) (i) of the statutes, as created by this act.

7 (3) The unencumbered balance in the appropriation account under section
8 20.521 (1) (g) of the statutes is transferred to the appropriation account under section
9 20.511 (1) (i) of the statutes, as created by this act.

10 (4) The unencumbered balance in the appropriation account under section
11 20.521 (1) (i) of the statutes is transferred to the appropriation account under section
12 20.511 (1) (h) of the statutes, as created by this act.

13 (5) In the schedule under section 20.005 (3) of the statutes for the appropriation
14 to the joint committee on finance under section 20.865 (4) (a) of the statutes, as
15 affected by the acts of 2005 and 2007, the dollar amount is increased by \$155,400 for
16 fiscal year 2006–07 to provide funding for the government accountability board to
17 hold meetings, employ staff, and prepare to assume its full authority and
18 responsibilities under this act.

19 **SECTION 202. Effective dates.** This act takes effect on the first day of the 7th
20 month beginning after publication, except as follows:

21 (1) The treatment of sections 5.052, 5.054, 15.07 (1) (a) 2., (2) (b), and (5) (m),
22 15.60, 15.603, 20.511 (intro.) and (1) (title) and (a), 20.923 (4) (f) 3j., and 230.08 (2)
23 (e) 4h. and (on) and (4) (a) of the statutes, SECTIONS 200 (4) to (7) and 201 (5) of this
24 act take effect on the day after publication.

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1 (2) The repeal and recreation of section 20.005 (3) (schedule) 20.511 of the
2 statutes takes effect on July 1, 2007.

3 (3) The repeal of section 20.511 (1) (c) of the statutes takes effect on July 1, 2007.

4 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

1450/1dm
LRB-1444/1dm
JTK:cs:jf

January 10, 2007

Representative Huebsch:

1. This draft does not specify whether the enforcement division of the Government Accountability and Integrity Board must bring an enforcement action upon direction of the board if the division does not want to bring that action. You may wish to clarify that point.

2. Proposed SECTION 200 (5) (a), which places the responsibility in the director of the Legislative Council Staff to serve as interim executive director of the Government Accountability Board and to exercise certain authority in that capacity, may raise an issue under the separation-of-powers provisions of the Wisconsin Constitution [art. VI and art. VII, sec. 2] because the draft places administrative and enforcement functions within the legislative branch. While a provision of this type would not be permitted under the constitutions of some states, the Wisconsin Supreme Court has indicated that in this state the separation-of-powers principle will not be applied inflexibly. The test is whether there is an actual and substantial encroachment, rather than a theoretical bridging of the division of power. *J.F. Ahern v. Bldg. Comm.*, 114 Wis.2d 69, 104 (Ct. App., 1983), as quoted in *Martinez v. DILHR*, 165 Wis.2d. 687, 697 (1992). Additionally, in this case, the proposed Government Accountability and Integrity Board will exercise some authority over all three branches of government. Under the separation of powers doctrine, a statute may not materially impair or practically defeat the proper function of a particular branch of government and the exercise of powers delegated it. *In Matter of E.B.*, 111 Wis. 2d 175, 184 (1983). With respect to a power that is shared between branches, a statute may not unduly burden or substantially interfere with another branch's essential role and powers. *State v. Unnamed Defendant*, 150 Wis. 2d 352, 360 (1989). Whether proposed SECTION 192 (4) will be viewed as a substantial encroachment by one branch of government upon the proper function of another branch cannot be determined with certainty.

3. Proposed s. 15.60 (6) provides that no member of the board may, while serving on the board, *or for 12 months thereafter*, become a candidate for state or local elective office. While the legislature has full latitude to prescribe the qualifications and disqualifications for statutory offices, the courts have held that the legislature may lack that power when it comes to constitutional offices: "It is a well established principle of constitutional law that where qualifications are prescribed in the constitution and the methods of removal are provided in the constitution, the constitution in those respects is exclusive and it is beyond the power of the legislature to prescribe additional qualifications or to provide for removal in other than the

constitutional method." *State ex rel. La Follette v. Kohler*, 220 Wis. 518, 553 (1930). Therefore, it may be difficult to enforce proposed s. 15.60 (6) as it respects some constitutional offices.

4. This draft creates a budget for the Government Accountability Board for the 2007-09 fiscal biennium. As we discussed, because the 2007-09 biennial budget bill has not yet been enacted as of this date, if that bill is enacted after this one, that bill will repeal and recreate the appropriation schedule into which the budget created by this draft is placed. To ensure continuance of any policy decisions embedded in the budget contained in this draft, it will be necessary to incorporate those decisions into the biennial budget bill. As of this early date, the factual information necessary to accurately compile state agency budgets for 2007-09 is not complete. In addition, there will be policy decisions affecting all state agency budgets for 2007-09 that have not yet been made. Lastly, the upcoming budget for the Elections Board requires a major review at this point because that board currently has several federally funded positions performing ongoing work that is required by federal law and federal funding for these positions is being discontinued.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1450/1dn
JTK:cs:jf

January 10, 2007

Representative Huebsch:

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constitution in those respects is exclusive and it is beyond the power of the legislature to prescribe additional qualifications or to provide for removal in other than the constitutional method." *State ex rel. La Follette v. Kohler*, 220 Wis. 518, 553 (1930). Therefore, it may be difficult to enforce proposed s. 15.60 (6) as it respects some constitutional offices.

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Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Kuesel, Jeffery

From: Jensen, Jodi
Sent: Wednesday, January 10, 2007 3:05 PM
To: Kuesel, Jeffery
Subject: Re: LRB-1450/1 and LRB-1451/1 (Jan 07 Sp. Sess)

Yes. That's fine. Thanks.

-----Original Message-----

From: Kuesel, Jeffery
To: Jensen, Jodi
CC: Barman, Mike
Sent: Wed Jan 10 15:04:30 2007
Subject: LRB-1450/1 and LRB-1451/1 (Jan 07 Sp. Sess)

Jodi,

Kathy Annen of the LC Staff is calling. She wants the LRB to send her pdf copies of the above drafts which are entered under Rep. Huebsch's name. I believe that Kathy is secretary to JCLO. IS this OK?

Jeffery Kuesel
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